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**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA**

LUCINA CALDERA, individually and ) Case No. 2:22-cv-4116  
on behalf of all others similarly situated,)

Plaintiff,

vs.

MACY'S CREDIT AND CUSTOMER )  
SERVICES, INC., )

Defendant. )

**CLASS ACTION**

**COMPLAINT FOR VIOLATIONS  
OF:**

1. NEGLIGENT VIOLATIONS  
OF THE TELEPHONE  
CONSUMER PROTECTION  
ACT [47 U.S.C. §227 ET  
SEQ.]
2. WILLFUL VIOLATIONS  
OF THE TELEPHONE  
CONSUMER PROTECTION  
ACT [47 U.S.C. §227 ET  
SEQ.]

**DEMAND FOR JURY TRIAL**

Plaintiff LUCINA CALDERA ("Plaintiff"), individually and on behalf of

1 all others similarly situated, alleges the following upon information and belief  
2 based upon personal knowledge:

3 **NATURE OF THE CASE**

4 1. Plaintiff brings this action individually and on behalf of all others  
5 similarly situated seeking damages and any other available legal or equitable  
6 remedies resulting from the illegal actions of MACY'S CREDIT AND  
7 CUSTOMER SERVICES, INC. ("Defendant") in negligently, knowingly, and/or  
8 willfully contacting Plaintiff on Plaintiff's cellular telephone in violation of the  
9 Telephone Consumer Protection Act, 47 U.S.C. § 227 *et seq.* ("TCPA"), thereby  
10 invading Plaintiff's privacy.

11 **JURISDICTION & VENUE**

12 2. Jurisdiction is proper under 28 U.S.C. § 1331 because this action  
13 arises under a federal statute, namely the Telephone Consumer Protection Act, 47  
14 U.S.C. § 227, *et seq.*

15 3. Venue is proper in the United States District Court for the Central  
16 District of California pursuant to 18 U.S.C. 1391(b) and 18 U.S.C. § 1441(a)  
17 because Defendant does business within the state of California and Plaintiff  
18 resides within the Central District of California.

19 **PARTIES**

20 4. Plaintiff, LUCINA CALDERA ("Plaintiff"), is a natural person  
21 residing in Hacienda Heights, California and is a "person" as defined by 47  
22 U.S.C. § 153 (10).

23 5. Defendant, MACY'S CREDIT AND CUSTOMER SERVICES,  
24 INC. ("Defendant"), is a the company that administers and manages the store  
25 credit cards for Macy's Department Stores, and is a "person" as defined by 47  
26 U.S.C. § 153 (10).

27 **FACTUAL ALLEGATIONS**

28 6. At various and multiple times prior to the filing of the instant

1 Complaint, including within the one year preceding the filing of this Complaint,  
2 Defendant contacted Plaintiff in an attempt to collect an alleged outstanding debt.

3 7. Beginning in and around October of 2020, Defendant contacted  
4 Plaintiff on her cellular telephone in an attempt to collect an alleged outstanding  
5 debt.

6 8. Specifically, Defendant placed numerous calls to Plaintiff, including  
7 but not limited to a call placed on October 29, 2020.

8 9. Defendant was calling Plaintiff on her cellular telephone number  
9 ending in -4659.

10 10. Defendant used an “automatic telephone dialing system”, as defined  
11 by 47 U.S.C. § 227(a)(1) to place its daily calls to Plaintiff seeking to collect the  
12 debt allegedly owed.

13 11. Defendant’s calls constituted calls that were not for emergency  
14 purposes as defined by 47 U.S.C. § 227(b)(1)(A).

15 12. Defendant’s calls were placed to telephone number assigned to a  
16 cellular telephone service for which Plaintiff incurs a charge for incoming calls  
17 pursuant to 47 U.S.C. § 227(b)(1).

18 13. Defendant never received Plaintiff’s “prior express consent” to  
19 receive calls using an automatic telephone dialing system or an artificial or  
20 prerecorded voice on her cellular telephone pursuant to 47 U.S.C. § 227(b)(1)(A).

21 **CLASS ALLEGATIONS**

22 14. Plaintiff brings this action individually and on behalf of all others  
23 similarly situated, as a member of the proposed class (hereafter “The Class”)  
24 defined as follows:

25 All persons within the United States who received any  
26 collection telephone calls from Defendant to said  
27 person’s cellular telephone made through the use of any  
28 automatic telephone dialing system or an artificial or  
prerecorded voice and such person had not previously

1 consented to receiving such calls within the four years  
2 prior to the filing of this Complaint

3 15. Plaintiff represents, and is a member of, The Class, consisting of All  
4 persons within the United States who received any collection telephone calls from  
5 Defendant to said person's cellular telephone made through the use of any  
6 automatic telephone dialing system or an artificial or prerecorded voice and such  
7 person had not previously not provided their cellular telephone number to  
8 Defendant within the four years prior to the filing of this Complaint.

9 16. Defendant, its employees and agents are excluded from The Class.  
10 Plaintiff does not know the number of members in The Class, but believes the  
11 Class members number in the thousands, if not more. Thus, this matter should be  
12 certified as a Class Action to assist in the expeditious litigation of the matter.

13 17. The Class is so numerous that the individual joinder of all of its  
14 members is impractical. While the exact number and identities of The Class  
15 members are unknown to Plaintiff at this time and can only be ascertained  
16 through appropriate discovery, Plaintiff is informed and believes and thereon  
17 alleges that The Class includes thousands of members. Plaintiff alleges that The  
18 Class members may be ascertained by the records maintained by Defendant.

19 18. Plaintiff and members of The Class were harmed by the acts of  
20 Defendant in at least the following ways: Defendant illegally contacted Plaintiff  
21 and Class members via their cellular telephones thereby causing Plaintiff and  
22 Class members to incur certain charges or reduced telephone time for which  
23 Plaintiff and Class members had previously paid by having to retrieve or  
24 administer messages left by Defendant during those illegal calls, and invading the  
25 privacy of said Plaintiff and Class members.

26 19. Common questions of fact and law exist as to all members of The  
27 Class which predominate over any questions affecting only individual members  
28 of The Class. These common legal and factual questions, which do not vary

1 between Class members, and which may be determined without reference to the  
2 individual circumstances of any Class members, include, but are not limited to,  
3 the following:

- 4 a. Whether, within the four years prior to the filing of this  
5 Complaint, Defendant made any collection call (other than a  
6 call made for emergency purposes or made with the prior  
7 express consent of the called party) to a Class member using  
8 any automatic telephone dialing system or any artificial or  
9 prerecorded voice to any telephone number assigned to a  
10 cellular telephone service;
- 11 b. Whether Plaintiff and the Class members were damages  
12 thereby, and the extent of damages for such violation; and
- 13 c. Whether Defendant should be enjoined from engaging in such  
14 conduct in the future.

15 20. As a person that received numerous collection calls from Defendant  
16 using an automatic telephone dialing system or an artificial or prerecorded voice,  
17 without Plaintiff's prior express consent, Plaintiff is asserting claims that are  
18 typical of The Class.

19 21. Plaintiff will fairly and adequately protect the interests of the  
20 members of The Class. Plaintiff has retained attorneys experienced in the  
21 prosecution of class actions.

22 22. A class action is superior to other available methods of fair and  
23 efficient adjudication of this controversy, since individual litigation of the claims  
24 of all Class members is impracticable. Even if every Class member could afford  
25 individual litigation, the court system could not. It would be unduly burdensome  
26 to the courts in which individual litigation of numerous issues would proceed.  
27 Individualized litigation would also present the potential for varying, inconsistent,  
28 or contradictory judgments and would magnify the delay and expense to all

1 parties and to the court system resulting from multiple trials of the same complex  
 2 factual issues. By contrast, the conduct of this action as a class action presents  
 3 fewer management difficulties, conserves the resources of the parties and of the  
 4 court system, and protects the rights of each Class member.

5 23. The prosecution of separate actions by individual Class members  
 6 would create a risk of adjudications with respect to them that would, as a practical  
 7 matter, be dispositive of the interests of the other Class members not parties to  
 8 such adjudications or that would substantially impair or impede the ability of such  
 9 non-party Class members to protect their interests.

10 24. Defendant has acted or refused to act in respects generally applicable  
 11 to The Class, thereby making appropriate final and injunctive relief with regard to  
 12 the members of the California Class as a whole.

### 13 **FIRST CAUSE OF ACTION**

#### 14 **Negligent Violations of the Telephone Consumer Protection Act**

#### 15 **47 U.S.C. §227 et seq.**

16 25. Plaintiff repeats and incorporates by reference into this cause of  
 17 action the allegations set forth above at Paragraphs 1-24.

18 26. The foregoing acts and omissions of Defendant constitute numerous  
 19 and multiple negligent violations of the TCPA, including but not limited to each  
 20 and every one of the above cited provisions of *47 U.S.C. § 227 et seq.*

21 27. As a result of Defendant's negligent violations of *47 U.S.C. § 227 et*  
 22 *seq.*, Plaintiff and the Class Members are entitled an award of \$500.00 in  
 23 statutory damages, for each and every violation, pursuant to *47 U.S.C. §*  
 24 *227(b)(3)(B).*

25 28. Plaintiff and the Class members are also entitled to and seek  
 26 injunctive relief prohibiting such conduct in the future.

**SECOND CAUSE OF ACTION**

**Knowing and/or Willful Violations of the Telephone Consumer Protection Act**

**47 U.S.C. §227 et seq.**

29. Plaintiff repeats and incorporates by reference into this cause of action the allegations set forth above at Paragraphs 1-28.

30. The foregoing acts and omissions of Defendant constitute numerous and multiple knowing and/or willful violations of the TCPA, including but not limited to each and every one of the above cited provisions of *47 U.S.C. § 227 et seq.*

31. As a result of Defendant's knowing and/or willful violations of *47 U.S.C. § 227 et seq.*, Plaintiff and the Class members are entitled an award of \$1,500.00 in statutory damages, for each and every violation, pursuant to *47 U.S.C. § 227(b)(3)(B)* and *47 U.S.C. § 227(b)(3)(C)*.

32. Plaintiff and the Class members are also entitled to and seek injunctive relief prohibiting such conduct in the future.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff requests judgment against Defendant for the following:

**FIRST CAUSE OF ACTION**

**Negligent Violations of the Telephone Consumer Protection Act**

**47 U.S.C. §227 et seq.**

- As a result of Defendant's negligent violations of *47 U.S.C. §227(b)(1)*, Plaintiff and the Class members are entitled to and request \$500 in statutory damages, for each and every violation, pursuant to *47 U.S.C. 227(b)(3)(B)*.
- Any and all other relief that the Court deems just and proper.

**SECOND CAUSE OF ACTION**

**Knowing and/or Willful Violations of the Telephone Consumer Protection Act**

**47 U.S.C. §227 et seq.**

- As a result of Defendant's willful and/or knowing violations of 47 U.S.C. §227(b)(1), Plaintiff and the Class members are entitled to and request treble damages, as provided by statute, up to \$1,500, for each and every violation, pursuant to 47 U.S.C. §227(b)(3)(B) and 47 U.S.C. §227(b)(3)(C).
- Any and all other relief that the Court deems just and proper.

**TRIAL BY JURY**

33. Pursuant to the seventh amendment to the Constitution of the United States of America, Plaintiff is entitled to, and demands, a trial by jury.

Respectfully Submitted this 15th day of June, 2022.

LAW OFFICES OF TODD M. FRIEDMAN, P.C.

By: /s/ Todd M. Friedman

Todd M. Friedman

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Attorney for Plaintiff